



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

**February 14, 1957**

Mr. Chas. M. Rogers,  
Chairman, Board of Trustees  
Teacher Retirement System of Texas  
Austin, Texas

Opinion No. (WW-24)

Re: Whether funds of the Teacher  
Retirement System of Texas  
may be invested in Corporate  
Stocks and Bonds.

Dear Sir:

Your request, dated February 11, 1957, presents in substance the following question:

"May the Board of Trustees of the Teacher Retirement System of Texas invest funds of the System in corporate stocks and bonds?"

Section 48a, Article III, of the Constitution of Texas, as amended by the Constitutional Amendment adopted at the General Election held November 6, 1956, in providing for the investment of Retirement System funds, reads in part as follows:

"Section 48a. . . .

"The Legislature may authorize all moneys coming into such fund to be invested . . .; or in such other securities as are now or hereafter may be permitted by law as investments for the Permanent University Fund or for the Permanent School Fund of this State; . . ."

Section 13, of Article 2922-1, Vernon's Civil Statutes, provides in part:

"Sec. 13. 1. . . . All retirement funds and monies, including those received into the Treasury of the State of Texas as deposits and contributions of teachers and employers, may be invested only . . .; and

in securities in which the State Permanent School Fund of Texas or the Permanent University Fund of the University of Texas may be invested under present or hereafter enacted laws."

From a reading of the foregoing constitutional and statutory provisions, it will be seen that all retirement funds, therein specified, may be invested by the Board of Trustees of the Teacher Retirement System in certain designated bonds and other evidences of indebtedness "and in securities in which the State Permanent School Fund of Texas or the Permanent University Fund of the University of Texas may be invested under present or hereinafter enacted laws." (Emphasis added)

We find no authority for funds of the State Permanent School Fund to be invested in corporate bonds and stocks. Section 11a of Article VII, of the State Constitution, adopted at the General Election held November 6, 1956, provides for the investment of the Permanent University Fund and reads, in part, as follows:

"Section 11a. In addition to the bonds now enumerated in Section 11 of Article VII of the Constitution of the State of Texas, the Permanent University Fund may be invested in . . . such corporation bonds, preferred stocks and common stocks as the Board of Regents of The University of Texas may deem to be proper investments for said funds; and the interest and dividends accruing from the securities listed in Section 11 and Section 11a, except the portion thereof which is appropriated by the operation of Section 18 of Article VII for the payment of principal and interest on bonds or notes issued thereunder, shall be subject to appropriation by the Legislature to accomplish the purposes declared in Section 10 of Article VII of this Constitution. In making each and all of such investments said Board of Regents shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital; provided, however, that not more than fifty per cent (50%) of said fund shall be invested at any

Mr. Chas. M. Rogers, page 3. (WW-24)

given time in corporate stocks and bonds, nor shall more than one per cent (1%) of said fund be invested in securities issued by any one (1) corporation, nor shall more than five per cent (5%) of the voting stock of any one (1) corporation be owned; and provided, further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors. . . ."

The provisions of Section 11a, for purposes of this opinion, are self-explanatory.

We conclude that the Board of Trustees of the Teacher Retirement System may invest funds of the System in those corporate stocks and bonds in which funds of the Permanent University Fund of the University of Texas may be invested, pursuant to the provisions of Section 11a of Article III of the Constitution of the State of Texas, and subject to the applicable conditions and limitations set forth therein.

#### SUMMARY

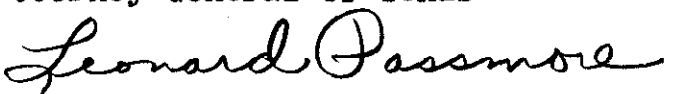
The Board of Trustees of the Teacher Retirement System may invest funds of the System in those corporate stocks and bonds in which funds of the Permanent University Fund of the University of Texas may be invested, pursuant to the provisions of Section 11a of Article III of the Constitution of the State of Texas, and subject to the applicable conditions and limitations set forth therein.

Very truly yours,

WILL WILSON  
Attorney General of Texas

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APPROVED:  
OPINION COMMITTEE  
H. Grady Chandler  
Chairman

By   
LEONARD PASSMORE  
Assistant